

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-7658

In Re: RAYMOND H. MCDONALD,

Petitioner.

On Petitions for Writ of Mandamus and Writ of Error Coram Nobis
(CR-91-552; CA-00-3944)

Submitted: February 9, 2004

Decided: February 27, 2004

Before MICHAEL and KING, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Petitions denied by unpublished per curiam opinion.

Raymond H. McDonald, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Raymond H. McDonald petitions for a writ of mandamus and for a writ of error coram nobis. He seeks an order to compel the district court to vacate his conviction and sentence and order his immediate release.

Mandamus relief is available only when the petitioner has a clear right to the relief sought. See In re First Fed. Sav. & Loan Assn., 860 F.2d 135, 138 (4th Cir. 1988). Further, mandamus is a drastic remedy and should be used only in extraordinary circumstances. See Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); In re Beard, 811 F.2d 818, 826 (4th Cir. 1987). Mandamus may not be used as a substitute for appeal. See In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979).

A writ of error coram nobis pursuant to 28 U.S.C. § 1651 (2000), can be used to vacate a conviction when there is a fundamental error resulting in conviction, and no other means of relief is available. See United States v. Morgan, 346 U.S. 502, 509-11 (1954); United States v. Mandel, 862 F.2d 1067, 1074-75 (4th Cir. 1988). But see Carlisle v. United States, 517 U.S. 416, 429 (1996) (noting "it is difficult to conceive of a situation in a federal criminal case today where a writ of coram nobis would be necessary or appropriate.").

Our review of the petitions for mandamus and coram nobis lead us to conclude that McDonald has failed to establish that his

conviction is invalid, and he is therefore not entitled to relief by way of mandamus or coram nobis. Accordingly, we deny McDonald's motion for judicial notice and deny the petitions for a writ of mandamus and a writ of error coram nobis. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITIONS DENIED